XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक M.A.(C) No. 241/2007 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

SB ;HON'BLE SHRI DHIRENDRA MISHRA, J

M.A.(C) NO. 241/2007

APPELLANT CLAIMANT

Ramkhilawan, S/o. Banwaliram, By Caste Sahu, aged about 36 years, R/o. Vilalge-Chandanbirhi, Tahsil Gurur, District Durg (CG)

Vs.

RESPONDENTS NON-CLAIMANTS

1. Rakesh Sinha, S/o. Ramdayal Sinha, aged about 35 years, R/o. Purur, Tahsil Gurur, District Durg (CG) Occupation Driver
2. Dayaram Ji Agrawal, S/o. Shri Ghasiram Agrawal, aged about 51 years, R/o. Shanti Colony, Dhamtari, Tahsil & District Dhamtari (CG)
3. Branch Manager, The New India Insurance Company Limited, Thakkar Bhawan, G.E.Road, Bhilai, District Durg (CG)

20.07.2007

Dr.Sanjeet Sharma, counsel for the appellant.

Shri P.P.Sahu, counsel for respondent No.1.

None for respondent No.2.

Shri Sourabh Sharma, counsel for respondent No.3.

Heard.

The appellant/claimant has preferred this appeal against the award dated 16.11.2006 in Claim Case No. 650/2004 whereby the learned Additional Motor Accident Claims Tribunal, Dhamtari has

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आदेश पत्रक

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

awarded a sum of Rs. 25,000/- as compensation to the appellant for the injuries sustained by him in the motor vehicle accident dated 26.08.2004 involving truck No. CG 05 A.0138 owned by respondent No.2 and driven by respondent No.1 and insured by respondent No.3.

Learned counsel for the appellant submits that in the said accident, the appellant suffered permanent disability as a result of ~~which~~ traumatic amputation of the distal phalanx of right thumb. ~~occurred~~. The injury was duly proved by adducing disability certificate of Ex.P-18 which was proved by Dr. Vinod Kumar Pandey (A.W.-2). However the tribunal has not awarded any compensation towards loss of earning capacity and simply awarded a sum of Rs. 10,000/- towards medical expenses and Rs. 15,000/- towards pains and suffering to the appellant.

On the other hand learned counsel for the respondent submitted that the reasoning assigned by the tribunal in not allowing compensation for loss of earning capacity is just and proper as the appellant has not examined the doctor who has treated and performed surgery over his thumb.

I have heard learned counsel for the parties and perused the impugned award.

From perusal of the document of Ex.P-18 which has been duly proved by Dr. Vinod Kumar Pandey, it is found that traumatic amputation of the distal phalanx of right thumb was performed and the appellant who is a driver had lost the vital organ i.e. thumb in the

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

said accident. Therefore, taking assistance from Part-II of Schedule 1 of the Workmen Compensation Act, 1923 wherein under entry No.10 loss of terminal phalanx of thumb results in 20% of the loss of earning capacity, I assess the loss of earning capacity of appellant at 20%. Though the appellant has claimed that he was earning Rs. 3,000/- per month as salary but no document has been filed by the appellant before the tribunal to prove the same. Therefore, assessing, the notional income of the appellant at Rs. 15000/- per annum, loss of annual earning capacity at Rs. 3,000/- & considering the age of appellant as 36 & applying the multiplier of 16 the total loss of earning is assessed at Rs. 48,000/- and further a sum of Rs. 32,000/- is awarded towards treatment and pains and sufferings. Accordingly the total sum of Rs. 80,000/- is awarded and thus additional sum of Rs. 55,000/- is awarded to the appellant.

The respondent/Insurance Company shall deposit the additional amount of compensation within two months from today before the Commissioner, Workmen Compensation, which shall be disbursed to the Workman.

Sd/-
Dhirendra Mishra
Judge